



Senate

General Assembly

File No. 218

January Session, 2011

Substitute Senate Bill No. 896

Senate, March 28, 2011

The Committee on Planning and Development reported through SEN. CASSANO of the 4th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT MAKING PROCEDURAL CHANGES TO THE SITE PLAN AND SUBDIVISION APPLICATION PROCESS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (g) of section 8-3 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2011*):

4 (g) [The zoning regulations may require that a site] A site plan shall
5 be filed with [the commission or other municipal agency or] a
6 municipal official duly authorized by the commission to aid in
7 determining the conformity of a proposed building, use or structure
8 with specific provisions of such regulations. If a site plan application
9 involves an activity regulated pursuant to sections 22a-36 to 22a-45,
10 inclusive, the applicant shall submit an application for a permit to the
11 agency responsible for administration of the inland wetlands
12 regulations not later than the day such application is filed with [the
13 zoning commission] such official. The [commission] official shall,

14 within the period of time established in section 8-7d, as amended by
15 this act, accept the filing of and shall process, pursuant to section 8-7d,
16 as amended by this act, any site plan application involving land
17 regulated as an inland wetland or watercourse under chapter 440. The
18 decision of the [zoning commission] official shall not be rendered on
19 the site plan application until the inland wetlands agency has
20 submitted a report with its final decision. In making [its] a decision,
21 the [commission] official shall give due consideration to the report of
22 the inland wetlands agency and if the [commission] official establishes
23 terms and conditions for approval that are not consistent with the final
24 decision of the inland wetlands agency, the [commission] official shall
25 state [on the record] in writing the reason for such terms and
26 conditions. A site plan may be modified or denied only if it fails to
27 comply with requirements already set forth in the zoning or inland
28 wetlands regulations. Approval of a site plan shall be presumed unless
29 a decision to deny or modify it is rendered within the period specified
30 in section 8-7d, as amended by this act. A certificate of approval of any
31 plan for which the period for approval has expired and on which no
32 action has been taken shall be sent to the applicant within fifteen days
33 of the date on which the period for approval has expired. A decision to
34 deny or modify a site plan shall set forth the reasons for such denial or
35 modification. A copy of any decision shall be sent by certified mail to
36 the person who submitted such plan within fifteen days after such
37 decision is rendered. The [zoning commission] official may, as a
38 condition of approval of any modified site plan, require a bond, in an
39 amount and with surety and conditions satisfactory to [it] such official,
40 securing that any modifications of such site plan are made or may
41 grant an extension of the time to complete work in connection with
42 such modified site plan. The [commission] official may condition the
43 approval of such extension on a determination of the adequacy of the
44 amount of the bond or other surety furnished under this section. The
45 [commission] official shall publish notice of the approval or denial of
46 site plans in a newspaper having a general circulation in the
47 municipality. In any case in which such notice is not published within
48 the fifteen-day period after a decision has been rendered, the person

49 who submitted such plan may provide for the publication of such
50 notice within ten days thereafter. The provisions of this subsection
51 shall apply to [all zoning commissions or other final zoning authority
52 of] each municipality whether or not such municipality has adopted
53 the provisions of this chapter or the charter of such municipality or
54 special act establishing zoning in the municipality contains similar
55 provisions.

56 Sec. 2. Subsection (b) of section 8-7d of the general statutes is
57 repealed and the following is substituted in lieu thereof (*Effective*
58 *October 1, 2011*):

59 (b) Notwithstanding the provisions of subsection (a) of this section,
60 whenever the approval of a site plan is the only requirement to be met
61 or remaining to be met under the zoning regulations for any building,
62 use or structure, a decision on an application for approval of such site
63 plan shall be rendered not later than sixty-five days after receipt of
64 such site plan. Whenever a decision is to be made on an application for
65 subdivision approval under chapter 126, [on which no hearing is held,]
66 such decision shall be rendered not later than sixty-five days after
67 receipt of such application. Whenever a decision is to be made on an
68 inland wetlands and watercourses application under chapter 440 on
69 which no hearing is held, such decision shall be rendered not later than
70 sixty-five days after receipt of such application. Whenever a decision is
71 to be made on an aquifer protection area application under chapter
72 446i on which no hearing is held, such decision shall be rendered not
73 later than sixty-five days after receipt of such application. The
74 applicant may consent to one or more extensions of such period,
75 provided the total period of any such extension or extensions shall not
76 exceed sixty-five days or may withdraw such plan or application.

77 Sec. 3. Subsection (a) of section 8-8 of the general statutes is repealed
78 and the following is substituted in lieu thereof (*Effective October 1,*
79 *2011*):

80 (a) As used in this section:

81 (1) "Aggrieved person" means a person aggrieved by a decision of a
82 board and includes any officer, department, board or bureau of the
83 municipality charged with enforcement of any order, requirement or
84 decision of the board. In the case of a decision by a zoning commission,
85 planning commission, combined planning and zoning commission,
86 [or] duly authorized agent or official of a zoning commission, planning
87 commission or combined planning and zoning commission, or zoning
88 board of appeals, "aggrieved person" includes any person owning land
89 that abuts or is within a radius of one hundred feet of any portion of
90 the land involved in the decision of the board.

91 (2) "Board" means a municipal zoning commission, planning
92 commission, combined planning and zoning commission, zoning
93 board of appeals or other board or commission the decision of which
94 may be appealed pursuant to this section, a duly authorized agent or
95 official of a zoning commission, planning commission or combined
96 planning and zoning commission whose decision may be appealed
97 pursuant to this section, or the chief elected official of a municipality,
98 or such official's designee, in a hearing held pursuant to section 22a-
99 250, whose decision may be appealed.

100 Sec. 4. Section 8-9 of the general statutes is repealed and the
101 following is substituted in lieu thereof (*Effective October 1, 2011*):

102 Appeals from zoning commissions and planning and zoning
103 commissions or their designated agents or officials may be taken to the
104 Superior Court and, upon certification for review, to the Appellate
105 Court in the manner provided in section 8-8, as amended by this act.

106 Sec. 5. Section 8-26 of the general statutes is repealed and the
107 following is substituted in lieu thereof (*Effective October 1, 2011*):

108 (a) All plans for subdivisions and resubdivisions, including
109 subdivisions and resubdivisions in existence but which were not
110 submitted to the commission for required approval, whether or not
111 shown on an existing map or plan or whether or not conveyances have
112 been made of any of the property included in such subdivisions or

113 resubdivisions, shall be submitted to the commission with an
114 application in the form to be prescribed by it. The commission, or its
115 duly authorized agent, shall have the authority to determine whether
116 the existing division of any land constitutes a subdivision or
117 resubdivision under the provisions of this chapter, provided nothing
118 in this section shall be deemed to authorize the commission or agent to
119 approve any such subdivision or resubdivision [which] that conflicts
120 with applicable zoning regulations. Such regulations may contain
121 provisions whereby the commission may waive certain requirements
122 under the regulations by a three-quarters vote of all the members of
123 the commission in cases where conditions exist which affect the subject
124 land and are not generally applicable to other land in the area,
125 provided that the regulations shall specify the conditions under which
126 a waiver may be considered and shall provide that no waiver shall be
127 granted that would have a significant adverse effect on adjacent
128 property or on public health and safety. The commission shall state
129 upon its records the reasons for which a waiver is granted in each case.

130 (b) The commission may establish a schedule of fees and charge
131 such fees. The amount of the fees shall be sufficient to cover the costs
132 of processing subdivision applications, including, but not limited to,
133 the cost of registered or certified mailings and the publication of
134 notices, and the costs of inspecting subdivision improvements. Any
135 schedule of fees established under this section shall be superseded by
136 fees established by ordinance under section 8-1c.

137 (c) The commission [may] shall not hold a public hearing regarding
138 any subdivision proposal. [if, in its judgment, the specific
139 circumstances require such action.] No plan of resubdivision shall be
140 acted upon by the commission without a public hearing. Such public
141 hearing shall be held in accordance with the provisions of section 8-7d,
142 as amended by this act.

143 (d) The commission may delegate to its duly authorized agent the
144 authority to approve, modify and approve, or disapprove any plan of
145 subdivision, provided the commission may not delegate the authority

146 to review any plan of resubdivision. The commission or agent shall
147 approve, modify and approve, or disapprove any subdivision or
148 resubdivision application or maps and plans submitted therewith,
149 including existing subdivisions or resubdivisions made in violation of
150 this section, within the period of time permitted under section 8-26d.
151 The commission or agent may modify or disapprove a plan of
152 subdivision only if it fails to comply with requirements set forth in the
153 planning or inland wetland regulations. Notice of the decision of the
154 commission or agent shall be published in a newspaper having a
155 substantial circulation in the municipality and addressed by certified
156 mail to any person applying to the commission under this section, by
157 its secretary or clerk, under his signature in any written, printed,
158 typewritten or stamped form, within fifteen days after such decision
159 has been rendered. In any case in which such notice is not published
160 within such fifteen-day period, the person who made such application
161 may provide for the publication of such notice within ten days
162 thereafter. Such notice shall be a simple statement that such
163 application was approved, modified and approved or disapproved,
164 together with the date of such action. The failure of the commission or
165 agent to act thereon shall be considered as an approval, and a
166 certificate to that effect shall be issued by the commission on demand.
167 The grounds for [its] the commission's action or the action of its agent
168 shall be stated in the records of the commission. No planning
169 commission or agent shall be required to consider an application for
170 approval of a subdivision plan while another application for
171 subdivision of the same or substantially the same parcel is pending
172 before the commission or agent. For the purposes of this subsection, an
173 application is not "pending before the [commission]" commission or
174 agent" if the commission or agent has rendered a decision with respect
175 to such application and such decision has been appealed to the
176 Superior Court.

177 (e) If an application involves land regulated as an inland wetland or
178 watercourse under the provisions of chapter 440, the applicant shall
179 submit an application to the agency responsible for administration of
180 the inland wetlands regulations no later than the day the application is

181 filed for the subdivision or resubdivision. The commission or agent
 182 shall, within the period of time established in section 8-7d, as amended
 183 by this act, accept the filing of and shall process, pursuant to section 8-
 184 7d, as amended by this act, any subdivision or resubdivision involving
 185 land regulated as an inland wetland or watercourse under chapter 440.
 186 The commission or agent shall not render a decision until the inland
 187 wetlands agency has submitted a report with its final decision to the
 188 commission or agent. In making [its] a decision the commission or
 189 agent shall give due consideration to the report of the inland wetlands
 190 agency and if the commission or agent establishes terms and
 191 conditions for approval that are not consistent with the final decision
 192 of the inland wetlands agency, the commission or agent shall state on
 193 the commission's record the reason for such terms and conditions. In
 194 making a decision on an application, the commission or agent shall
 195 consider information submitted by the applicant under subsection (b)
 196 of section 8-25 concerning passive solar energy techniques. The
 197 provisions of this section shall apply to any municipality which
 198 exercises planning power pursuant to any special act.

199 Sec. 6. Section 8-28 of the general statutes is repealed and the
 200 following is substituted in lieu thereof (*Effective October 1, 2011*):

201 Notice of all official actions or decisions of a planning commission
 202 or its duly authorized agent, not limited to those relating to the
 203 approval or denial of subdivision plans, shall be published in a
 204 newspaper having a substantial circulation in the municipality within
 205 fifteen days after such action or decision. Any appeal from an action or
 206 decision of a planning commission or its agent shall be taken pursuant
 207 to the provisions of section 8-8, as amended by this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	8-3(g)
Sec. 2	<i>October 1, 2011</i>	8-7d(b)
Sec. 3	<i>October 1, 2011</i>	8-8(a)
Sec. 4	<i>October 1, 2011</i>	8-9

Sec. 5	<i>October 1, 2011</i>	8-26
Sec. 6	<i>October 1, 2011</i>	8-28

Statement of Legislative Commissioners:

In section 1(g), "with surety and conditions satisfactory to it" was changed to "with surety and conditions satisfactory to [it] such official" for clarity; and in section 5(d), new language concerning the limitation on the modification or disapproval of a plan was restructured for clarity.

PD *Joint Favorable Subst.-LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact:

Municipalities	Effect	FY 12 \$	FY 13 \$
Various Municipalities	STATE MANDATE - Cost; Potential Revenue Gain; Cost Avoidance	See Below	See Below

Explanation

The bill would require a planning and zoning commission to designate a municipal official to receive site plan proposals and perform regulatory duties now held by the commission. Any community not presently employing or retaining persons appropriate to assume these responsibilities will incur annual costs estimated at less than \$50,000 to comply with this mandate. Certain municipalities may mitigate these costs, in part or whole, by increasing locally established application fees.

The bill also prohibits a planning and zoning commission from holding public hearings on subdivision plans. Fewer than twenty such hearings a year are anticipated to be held in any given community. Averted costs per hearing are estimated at \$500 - \$2,000, as there will be no need to publish meeting notices and retain transcription services.

It is anticipated that the discretionary authority granted in the bill to planning and zoning commissions to delegate the review of subdivision plans to a duly authorized agent will only be utilized if

local resources are deemed sufficient to accommodate any resulting costs.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sSB 896*****AN ACT MAKING PROCEDURAL CHANGES TO THE SITE PLAN AND SUBDIVISION APPLICATION PROCESS.*****SUMMARY:**

This bill alters the municipal review, decision, and appeal process for a site or subdivision plan, primarily by changing who is and may be involved in reviewing and determining whether to approve a plan. Specifically, the bill requires a developer to submit a site plan to a municipal official authorized by a planning and zoning commission, instead of the commission itself, and transfers the commission's corresponding duties under existing law to the official. For a subdivision plan, it authorizes a commission to delegate its duties to an agent to review and decide whether to approve the plan and extends the corresponding duties to the agent.

The bill prohibits a planning and zoning commission from holding a public hearing on a subdivision proposal. Under current law, a commission may hold a public hearing on a subdivision proposal if it determines circumstances require it. By law, a commission cannot act on a resubdivision plan without a public hearing.

The bill also prohibits a planning and zoning commission or its agent from modifying or rejecting a subdivision plan, unless the plan fails to comply with planning or inland wetland regulations. This mirrors existing law for site plans, which specifies that a site plan may be modified or denied only if it fails to comply with existing requirements in zoning or inland wetland regulations.

The bill makes several conforming and technical changes.

EFFECTIVE DATE: October 1, 2011

DULY AUTHORIZED MUNICIPAL OFFICIAL TO REVIEW AND DECIDE ON SITE PLANS

Under current law, a municipal planning and zoning commission or other municipal agency or official must review a site plan to determine whether a proposed project conforms to the municipality's zoning regulations, if local zoning regulations require review. The bill instead requires a (1) municipal official that a planning and zoning commission duly authorizes to review site plans and (2) developer to submit a site plan for review to the duly authorized municipal official regardless of whether required by zoning regulation. The bill requires the duly authorized official to carry out the site plan process and corresponding duties commissions have under current law (e.g., notice requirements, decisions, and appeals).

The official must state in writing why any terms and conditions for approval are not consistent with an inland wetlands agency's final decision. Under current law, a commission must do so on the record.

SUBDIVISION PLAN REVIEW BY A COMMISSION'S DULY AUTHORIZED AGENT

The bill authorizes a planning and zoning commission to delegate to a duly authorized agent its authority to approve, modify and approve, or disapprove any subdivision plan. But, it does not allow it to delegate authority for its mandatory review of a resubdivision plan. The bill extends a commission's duties and responsibilities under the subdivision approval process to the agent.

Under existing law, a planning and zoning commission determines whether a plan or an existing division of land constitutes a subdivision or resubdivision. The bill also allows the commission's duly authorized agent to make this determination.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable

Yea 19 Nay 1 (03/07/2011)